

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 04-0217
Controlled Substance Excise Tax
For the Year 2003**

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ISSUE

Controlled Substance Excise Tax-Imposition

Authority: IC 6-7-3-5, IC 6-8.1-5-1(b).

The taxpayer protests the assessment of controlled substance excise tax.

STATEMENT OF FACTS

The taxpayer was arrested for possession of controlled substances. The local prosecutor requested in writing that the Indiana Department of Revenue assess the Controlled Substance Excise Tax. A Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand was issued on March 31, 2004, in a base tax amount of \$23,253.75. The taxpayer filed a protest to the assessment. The taxpayer's representative waived the hearing and requested that the department's decision be based upon the documentation in the file. This Letter of Findings results.

Controlled Substance Excise Tax-Imposition

DISCUSSION

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the possession of controlled substances in the State of Indiana. The taxpayer bears the burden of proving that the assessment of tax is incorrect. IC 6-8.1-5-1(b). The arresting officer's report and Indiana State Police Laboratory report indicate that the taxpayer was in possession of marijuana. Therefore, the Controlled Substance Excise Tax was properly imposed in this situation.

FINDING

The taxpayer's protest is denied.